

**OPINION
60-159**

November 22, 1960 (OPINION)

OCCUPATIONS AND PROFESSIONS

RE: Nursing Scholarships - Qualifications of Candidates

This is in reply to your request for an opinion of this office in regard to administration of the statutory provisions authorizing the issuance of nursing scholarships. You ask:

1. To what extent can financial need be the deciding factor in the decision to grant a nursing scholarship? Health, character, personal-social characteristics, vocational adaptability to nursing, record of scholastic achievement, and to some extent, geographic location in the state have been the influencing factors.

If there are funds available, do we have the right to refuse an applicant qualified in every way if there appears to be no financial need?

2. May a scholarship recipient, after graduation, be employed in a public health agency in the state instead of a 'hospital or institution' in fulfillment of her obligation of a year's employment in North Dakota?"

In reply to your first question, sections 43-1227 and 43-1228 of the 1957 Supplement to the North Dakota Revised Code of 1943 provide:

43-1227. DUTIES OF THE STATE BOARD. The state board may:

1. Grant scholarships to students attending a school of nursing in accordance with the laws pertaining to registration of nurses; to licensing of practical nurses; and to professional graduate nurses meeting requirements for advanced study;
2. Make rules and regulations and establish standards, requirements and procedure in administering this Act (ss. 43-1225 through 43-1232) so as to encourage young men and women to enter the nursing profession."

43-1228. QUALIFICATIONS OF CANDIDATES. A person shall not be selected as a candidate for a scholarship unless such applicant be at least eighteen years of age. In selecting candidates for scholarships, consideration shall be given to:

1. Adaptability to nursing,
2. Health,
3. Character,

4. Personal-social characteristics,
5. Record of level of achievement, and
6. Capacity and willingness upon graduation to nurse in a hospital or institution in North Dakota for one year."

We note first that it would appear that the state board is given discretion in the matter of whether scholarships will or will not be granted.

Note particularly in this regard the provision of section 43-1227 that "the state board may" The use of this word "may" in this context is, we believe, permissive rather than mandatory. The standards, however, upon which such scholarships are to be granted if the permission granted by statute is to be utilized are, however, concisely set out in section 43-1228, as quoted above. There is nothing contained in these standards in regard to basis of need. It would, therefore, be our opinion that the board must first decide whether or not scholarships should be granted. If they decide not to grant scholarships, at any particular period of time, that would conclude the point. If, however, they do decide to grant scholarships at any particular time, they should be granted strictly on the basis of the standard set out in said section 43-1228. We might suggest in this regard that the statute be amended so as to authorize either honorary or financial scholarships in the discretion of the board.

As to the second question you present, we note that the statutory definition of "professional nursing" refers to a service rendered in hospitals or other institutions for the care of the sick, in the home, in community health agencies, in industries or in schools. The statutory provisions in regard to the service to be rendered in exchange for the cancellation of the notes given for the scholarship refers only to a return to North Dakota "for a position to be held for at least one year" (See section 43-1230 of the 1957 Supplement to the North Dakota Revised Code of 1943) and to "completed a full year of nursing in North Dakota" (See section 43-1231 of the 1957 Supplement to the North Dakota Revised Code of 1943). On this basis it would be our opinion that the statutory requirement would be fulfilled by any service falling within the definition of professional nursing as set out above, which might be rendered in any of the types of places enumerated. Service rendered in a public health agency would, we believe, fall within this definition.

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